

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOEY S. GERALD, Parent and Guardian
of A.G.,

Plaintiff,

vs.

Case No. 09-cv-14763
HON. GEORGE CARAM STEEH

FLINT COMMUNITY SCHOOL DISTRICT,
FREDERICK WHITE, MARVIN NUNN, DERRICK
JOHNSON, FLINT POLICE DEPARTMENT, AND
OFFICER MARK WILLIAMS,

Defendants.

_____/

ORDER ACCEPTING REPORT AND RECOMMENDATION (#27), GRANTING
DEFENDANTS FLINT COMMUNITY SCHOOL DISTRICT'S, FREDERICK WHITE'S,
MARVIN NUNN'S, AND DERRICK JOHNSON'S MOTION TO DISMISS (#13),
ACCEPTING REPORT AND RECOMMENDATION (#28), AND GRANTING
DEFENDANT FLINT POLICE DEPARTMENT'S MOTION TO DISMISS (#18)

On December 8, 2009, plaintiff, the father of minor AG, filed a complaint against Flint Northwestern High School administrators Frederick White and Marvin Nunn, a school safety officer, Derrick Johnson, the Flint Community School District, the Flint Police Department and Flint Police Officer Mark Williams claiming that defendants violated AG's Fourteenth Amendment rights when he was pulled out of his class, taken to the principal's office and held there until Officer Williams arrested him and transported him to the police station after school administrators received information that AG had been involved in an assault of another student.

All of the defendants have filed motions to dismiss, except for defendant Williams, who has yet to be served with the summons and a copy of the complaint.¹ The matter was referred to Magistrate Judge R. Steven Whalen, who issued two reports and recommendations on February 3, 2011 and February 4, 2011. The magistrate judge recommends that defendants Flint Community School District, White, Nunn and Johnson's motion to dismiss be granted and defendants dismissed from this action. See Dkt. No. 27. The magistrate judge further recommends that defendant Flint Police Department's motion to dismiss be granted and this defendant be dismissed from this action. See Dkt. No. 28. Plaintiff has failed to file any objections to the magistrate judge's reports and recommendations. The court has reviewed both reports and recommendations, and in the absence of any timely objection thereto,

The court hereby adopts Magistrate Judge R. Steven Whalen's February 3, 2011 report and recommendation [#27] in its entirety. Defendants Flint Community School District's, Frederick White's, Marvin Nunn's and Derrick Johnson's motion to dismiss [#13] is GRANTED.

The court also adopts Magistrate Judge R. Steven Whalen's February 4, 2011 report and recommendation [#28]. Defendant Flint Police Department's motion to dismiss [#18] is GRANTED.

Defendants Flint Community School District, Frederick White, Marvin Nunn, Derrick

¹ The court has ordered plaintiff to establish good cause for his failure to timely serve the summons and a copy of the complaint upon defendant Mark Williams. Plaintiff's failure to establish good cause will result in the dismissal of his claim against defendant Williams.

Johnson and Flint Police Department are DISMISSED with prejudice.

SO ORDERED.

Dated: March 10, 2011

S/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on March 10, 2011, by electronic and/or ordinary mail and to Joey Gerald at 202 E. York, Flint, MI 48505.

S/Josephine Chaffee
Deputy Clerk